REMARKS

Independent claim 11 stands rejected under § 102(e) over U.S. Patent No. 6,160,545 to Eyer et al. (hereinafter, "Eyer"). Claim 11 calls for a system that includes a packetization device coupled to a video controller to independently packetize at least two heterogeneous video streams for transmission thereof in respective native information formats and associated native frame rates. However, the Eyer reference fails to disclose a device that independently packetizes multiple heterogeneous video streams for transmission thereof. There is no suggestion whatsoever in the Eyer reference that such transmission occurs in native information formats and associated native frame rates. In fact, for transmission, different packets are merely multiplexed, forming a common data stream. Accordingly, claim 11 is not anticipated by the teachings of Eyer.

Specifically, the video and IPG data in the Eyer reference are not independently packetized into heterogeneous video streams. Instead, video and IPG data are transmitted in a single data stream. Not only is there one transmitted data stream, the video, and IPG data transmission is not indicated to occur in multiplicity of native information formats with associated native frame rates. Thus, the Eyer reference fails to teach or suggest, use of a packetization device that may independently packetize at least two heterogeneous video streams for transmission in respective native information formats and associated native frame rates, as claimed in claim 11.

In the Eyer reference, the encoder 100 does not packetize multiple heterogeneous video streams for transmission thereof in respective native information formats and associated native frame rates. Instead, the encoder 100 simply outputs all the data and services (IPG data and audio/video sources) to a MUX and modulation function 250 to provide a signal, which is suitable for transmission by the transmitter 110. That is, the MPEG-2 standard based encoders of which details are shown in Figure 2 simply mix the disparate content within, e.g., a MPEG-2 encoder 220 through a MPEG-2 encoder 230, producing a single data stream for transmission.

More particularly, in column 8, it is stated that "the IPG provides a continuous flow of IPG data at typically 20-200 kbps to a plurality of encoders, such as MPEG-2 encoders 220, 230." See column 8, lines 12-14. The encoders 230 and 220 output the programming services, IPG data, and EMM data to a MUX and modulation function 250 to provide a signal, which is suitable for transmission. See column 8, lines 24-28.

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Therefore, a signal, i.e., the transmitted data stream, rather than multiple independently packetized heterogeneous video streams in respective native information formats and associated native frame rates, is provided for transmission. Simply put, Eyer finds a way to transmit disparate packets including video, audio, and other packets of the IPG data using a common data stream rather than in two or more heterogeneous video streams, which are independently packetized.

Furthermore, Eyer never indicates that the different packets transmitted in the common data stream are in respective native information formats and associated native frame rates. In fact, there is nothing whatsoever to indicate that he ever even considered the problems that arise in connection with independently packetizing more than one heterogeneous video streams for transmission. The mere fact that different kinds of packets are transmitted in a data stream is hardly indicative of the consideration of the issues concerning independently packetizing multiple heterogeneous video streams.

The Examiner noted that the encoder 100 inherently comprises a processor, a memory, and a video controller coupled to the processor. To establish inherency, however, "must make clear that the missing descriptive matter is necessarily present in the thing described in the reference, and that it would be *so recognized by persons of ordinary skill.*" Emphasis in article. *Continental Can v. Monsanto Co.*, 20 USPQ2d 1746, 1749 (Fed. Cir. 1991). That is, under the principles of inherency, the cited reference must necessarily function in accordance with, or include the claimed limitations of claim 11.
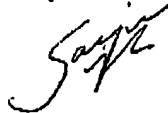
Instead, the encoder 100 in the Eyer reference is based on MPEG-2, which is a widely accepted standard (International Standard ISO/IEC 13818-1, published in April 1996) for generic coding of moving pictures and associated audio, such as MPEG-2 video compression. For example, in various applications including digital television broadcasting and video communications, the MPEG-2 systems layer is the transportation system used to format, identify, and carry data from encoder to decoder. The MPEG-2 provides several methods of multiplexing elementary streams (video, audio, and data) into programs and for multiplexing programs together into a common data stream. Thus, the cited reference fails to necessarily function in accordance with, or includes the claimed limitations.

For at least the similar reasons as set forth above in the context of claim 11, the claims 12 and 13 dependent therefrom distinguishes over the Eyer reference. In particular, as to claim 12,

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the Eyer reference fails to teach a modulation device to modulate and transport at least two heterogeneous video streams that are independently packetized for transmission. Likewise, in connection with claim 13, there is no teaching of a different frame rate for each of the two heterogeneous video streams that is packetized to be depacketized at the original frame rate in a display device. Therefore, reconsideration of the rejection of the pending claims is respectfully requested.

In view of these remarks, the application is now in condition for allowance and the Examiner's prompt action in accordance therewith is respectfully requested.

Respectfully submitted,

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